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In re Application of

JUN 21 2007

Kim, et al.

OFFICE OF PETITIONS

Application No. 10/717,265

: DECISION ON PETITION

Filed: November 19, 2003

Attorney Docket No. 5000-1-481

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed May 29, 2007.

The petition is **granted**.

This application was held abandoned on December 22, 2006, after no reply was received to the non-final Office action mailed September 21, 2006. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on December 22, 2006. A Notice of Abandonment was mailed on May 1, 2007. The instant petition was filed on May 29, 2007. Petitioner maintains that the notice of September 21, 2006, was never received due to a failure of the USPTO to associate the subject application with customer number 33942.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* (“MPEP”) provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Although petitioner has not provided a copy of the relevant docket records, a review of the application file revealed the application was not associated with customer number 33942, notwithstanding the request that was made in the application transmittal sheet to do so. As a result, correspondence address for the application was not changed when the correspondence address associated with customer number 33942 changed. The non-final Office action was mailed to an incorrect address. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2600, GAU 2613 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.



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Office of Petitions